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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,123	12/31/2001	Vivek Kashyap	BEA920000011US2	8785

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EXAMINER	
MANOSKEY, JOSEPH D	

ART UNIT	PAPER NUMBER
2113	

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/040,123	KASHYAP, VIVEK	
	Examiner	Art Unit	
	Joseph Manoskey	2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 January 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7 and 12-15* is/are rejected.

7)☒ Claim(s) *8-11* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 January 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *1/30/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-7 and 12-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Purcell et al. U.S. Patent 6,246,666, hereinafter referred to as "Purcell".

3. Referring to claim 1, Purcell teaches a plurality of servers and computer devices connected in a cluster that allows failover, this is interpreted as an apparatus for providing to a third system connection information for a connection between first and second systems, the first, second and third systems being connected by a network (See Fig. 1, and Col. 2, lines 65 to Col. 3, line 29). Purcell also teaches a failover occurring via communication link that is peer-to-peer, this is interpreted as a network interface to connect the third system to the network as a peer to the first and the second systems (See Col. 3, lines 23-29 and Col. 3, lines 50-56).

Purcell discloses the servers having I/O processors and memory that contain information of device control lists of the server to assist in failover by communicating the list the across the transport layer, this interpreted as a selector responsive to the network interface identifying information regarding the connection between the first and second systems, memory storing the information regarding the connection between the first and second systems in response to the selector being responsive to the network interface identifying the information, the information including at least one data packet (See Col. 4, lines 7-18 and Col. 5, line 46 to Col. 6, line 6).

Finally, Purcell teaches the IOPs communicating the information using a peer transport in the event of a failover, this is interpreted as an output queue for sending the information regarding the connection between the first and second systems to the third system in response to one of the first and second systems having failed, such that the failover is achieved to the third system in a peer-to-peer manner (See Col. 5, line 46 to Col. 6, line 6).

4. Referring to claim 2, Purcell teaches a device control list containing a list of the devices that are connected to the IOP, this is interpreted as connection state information (See Col. 5, line 67 to Col. 6, line 2).

5. Referring to claim 3, Purcell discloses the communication across a network using transport layer protocol, this is interpreted as the connection is a TCP connection (See Col. 5, lines 47-49).

6. Referring to claim 4, Purcell teaches several servers connected via a network and including failing over to a server, this is interpreted as wherein the first system is a connection host, the second system is a remote host, and the third system is a failover host (See Fig. 1 and Col. 2, line 65 to Col. 3, line 29).

7. Referring to claim 5, Purcell teaches both servers being able to be the failover server for the other, this is interpreted as the first system and the third system solicit ownership information from each other (See Col. 3, lines 23-29 and Col. 7, lines 1-21).

8. Referring to claim 6, Purcell discloses the system being in a cluster, this is interpreted as the first, second and third systems are within a cluster of systems (See Fig. 1).

9. Referring to claim 7, Purcell teaches a plurality of servers and computer devices connected in a cluster that allows failover, this is interpreted as a system of maintaining a connection within a network (See Fig. 1, and Col. 2, lines 65 to Col. 3, line 29). Purcell also teaches a failover occurring via communication link that is peer-to-peer, this is interpreted as means for broadcasting ownership information between a first system on which an application is running to at least a second system within the network, the broadcasting being accomplished by multicasting (See Col. 3, lines 23-29 and Col. 3, lines 50-56).

Purcell discloses the use of a failover ISM that effectuates the failover recovery process in either processor, this is interpreted as means for determining that the second system will assume the connection for the first system if the first system fails (See Col. 5, lines 22-24). Purcell also discloses a IOP with memory that is in communication via the transport layer, this is interpreted as an apparatus connected to the network and including memory storing packets sent to and received by the first system (See Col. 5, lines 17-18 and lines 47-49). A heartbeat timer is used for determining the failure of one of the servers, this is interpreted as means for determining that the first system is in a failed state (See Col. 5, lines 17-18 and Col. 6, lines 30-34).

Finally, Purcell teaches the servers having I/O processors and memory that contain information of device control lists of the server to assist in failover by communicating the list the across the transport layer as a peer transport, this interpreted as means for continuing the application on the second system from the point at which the first system failed, the means for continuing being responsive to the stored packets of the apparatus, such that the failover is achieved to the second in a peer-to-peer manner (See Col. 4, lines 7-18 and Col. 5, line 46 to Col. 6, line 6).

10. Referring to claim 12, Purcell discloses the communication across a network using transport layer protocol, this is interpreted as the connection is a TCP connection (See Col. 5, lines 47-49).

11. Referring to claim 13, Purcell teaches several servers connected via a network and including failing over to a server, this is interpreted as wherein the first system is a connection host and the second system is a failover host (See Fig. 1 and Col. 2, line 65 to Col. 3, line 29).

12. Referring to claim 14, Purcell teaches both servers being able to be the failover server for the other, this is interpreted as the first system and the second system solicit ownership information from each other (See Col. 3, lines 23-29 and Col. 7, lines 1-21).

13. Referring to claim 15, Purcell discloses the system being in a cluster, this is interpreted as the first and second systems are within a cluster of systems (See Fig. 1).

Allowable Subject Matter

14. Claims 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

15. Applicant's arguments, see page 8 of amendment, filed 30 January 2005, with respect to the drawings have been fully considered and are persuasive. The objections of the drawings have been withdrawn.

16. Applicant's arguments, see page 8-14 of amendment, filed 30 January 2005, with respect to the rejection(s)of claim(s) 1-15 under 35 U.S.C. 102(e) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Purcell, see above rejection.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Manoskey whose telephone number is (571) 272-3648. The examiner can normally be reached on Mon.-Fri. (7:30am to 4pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JDM
April 6, 2005

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